REMARKS/ARGUMENTS

Amendments

The Claims have been amended to more clearly define the present invention; and to make some minor changes to the dependency of some of the remaining Claims. Support for the amendments is found in the original Claims and in the Specification as a whole. No new matter is added to the present application.

More specifically, Claim 1 has been amended to provide a two-step process for preparing a cosmetic product. Step 1 in Claim 1, "(a) providing a high internal phase ratio emollient-in-water emulsion concentrate" finds support in the Specification, page 2, lines 7-12, and page 6, lines 1-22; in Original Claims 1 and 12; and in Examples 1-5. Step 2 in Claim 1, "(b) diluting the high internal phase ratio emollient-in-water emulsion concentrate with a partial cosmetic formulation, said partial cosmetic formulation comprising at least water" finds support in the Specification, page 7, lines 20-22; and Examples 4 and 5.

Present Invention

The present invention is directed to at least a two-step process for preparing a cosmetic product by (a) providing a high internal phase ratio (HIPR) emollient-in-water emulsion component and (b) diluting the HIPR emollient-in-water emulsion component of step (a) with a partial cosmetic formulation component to form a cosmetic product. The partial cosmetic formulation component in step (b) is at least water. No one, prior to the present Applicants, has heretofore first prepared a HIPR concentrate as a separate and independent ingredient and then diluted the HIPR concentrate to form a cosmetic product.

Claim Rejections under 35 U.S.C. §112

Claims 1-19 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failure to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. It is believed that the amendments to the Claims now overcome this rejection.

The term "advanced" has been removed from the Claims, and therefore, the objection to this term is now moot.

The term "partial cosmetic formulation" in Claim 1 has been more clearly defined as "comprising at least water." Accordingly, this term is now definite to one of ordinary skill in the art.

The term "high" in the phrase "a **high** internal phase ratio emollient-in-water emulsion" is a term that should not be isolated and defined on its own. Instead, the total phrase "high internal phase ratio (HIPR) emollient-in-water emulsion" is a well-known term of art and is definite to one of ordinary skill in the art. The "HIPR" phrase is clearly defined in the present Specification on page 2, lines 7-12, wherein it states: "In general, HIPR emulsions are characterized by a disperse phase of polyhedral cells at a volume fraction of at least 74% (the most compact arrangement of spheres of equal radius) dispersed in a continuous phase that forms a thin film separating the cells." See also, page 6, lines 1-15; and page 8, lines 6-10, of the Specification for a further description of HIPR. In addition, several U.S. patents granted by the U.S.P.T.O. contain the well-know term "high internal phase ratio." See, for example, U.S. Patent Nos. 5,539,021; 5,688,842; 4,606,913; 4,934,398 and 4,018,426; a copy of each which is submitted herewith. Also submitted herewith for the Examiner's consideration is a copy of the following reference: Becher, Paul; *Emulsions Theory and Practice*; Third Edition; Oxford University Press; New York; 2001; pp. 83-85; which further describes a "high internal phase" with reference to a concentrated emulsion. Accordingly, it is believed that the term "high" used with reference to a "high internal place ratio" in the present Claims is definite.

It is urged that the amendments to the Claims now overcome the rejection based on 35 U.S.C. §112, second paragraph, and it is respectfully requested that this rejection be withdrawn.

Claim Rejections under 35 U.S.C. §102

Claims 1-19 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,228,348 B1, issued to Simon et al. (herein "Simon et al."). This

rejection is now believed to be overcome by the amendments made to the Claims; and it is respectfully requested that the above rejection be withdrawn.

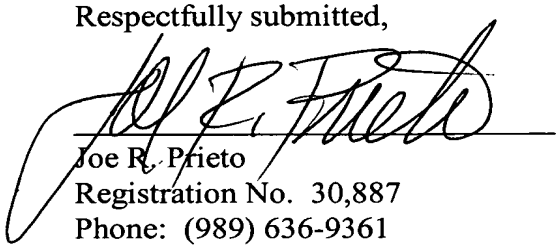
Claims 1-12, as amended, are now novel because Simon et al. do not teach a two-step process of (a) providing a HIPR emulsion and then (b) diluting the HIPR emulsion to form a cosmetic product. Instead, Simon et al. teach one of ordinary skill in the art to make an emulsion by blending or mixing all ingredients into one formulation and then homogenizing the mixture to form an emulsion. Simon et al. do not dilute the resultant homogenized mixture with a partial cosmetic formulation. Since Claim 1, as amended, is now novel, Claims 2-12 dependent, directly or indirectly, on Claim 1 are also novel over Simon et al.

With regard to composition Claims 13-17, Simon et al. do not teach a silicone elastomer. Simon et al. teach the use of "silicone oils" such as cyclic or linear polydimethylsiloxanes (PDMS), for example, cyclomethicone or dimethicone. Silicon elastomers differ from linear or cyclic silicone oils in that silicone elastomers are crosslinked polymers, while silicone oils are not. In addition, silicone oils are usually very low viscosity fluid materials and are typically used as solvents. Silicone elastomers, on the other hand, are thick resinous crosslinked materials that do not solubilize in solvents, but instead swell in solvents. Silicone elastomers are clearly distinguished from silicone oils, for example, in the textbook *Siloxane Polymers*, S. J. Clarson, et al., PTR Prentice Hall, New Jersey, 1993, pg. 465-468; 567; 616-617 and in U.S. Patent No. 5,654,362; copies of which are submitted herewith. Also submitted herewith for the Examiner's consideration is a copy of the following publication: "New Developments in Silicone Elastomers for Skin Care," Michael Starch, Dow Corning, Form No. 27-1060A-01, 2002, which clearly differentiates a "silicone elastomer" from a "silicone fluid" (i.e., a "silicone oil"). The references cited in the above publication are listed in USPTO Form 149, also submitted herewith. Simon et al. do not teach or suggest the use of "silicone elastomers" or "high internal phase ratio" silicone elastomers. Accordingly, Claims 13-17 are novel over Simon et al.

Simon et al. also do not teach the specific high internal phase ratio sunscreen agent-in-water emulsion of Claims 18 and 19. Accordingly, these Claims are also novel over Simon et al.

It is urged that all the pending Claims, as now amended, are patentable over all of the cited art of record and that the present invention, as now claimed, should be allowed. Reconsideration of all the rejections and an early allowance is respectfully requested.

Respectfully submitted,



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